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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

TAYLOR, JOSHUA D

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/806,830	Applicant(s) NISHIKAWA ET AL.	
	Examiner JOSHUA TAYLOR	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/15/2008, 4/30/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's arguments, filed 2/15/2008, with respect to the rejection of claims 1-14 under *35 USC § 102* have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of *35 USC § 103*.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (Pub. No.: US 2004/0117831) in view of Robarts et al (Pub. No.: US 2005/0278741).

Regarding claim 1, Ellis discloses: **a method to facilitate use of an interactive program guide, comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs** (Ellis, Fig. 31, paragraph [0128], lines 5-13); **displaying an interactive program guide comprising at least one of the characterizing descriptors as corresponds to a particular one of the discrete selectable audio/visual programs** (Ellis, Fig. 31). However, Ellis does not disclose the following, which Robarts does:

detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program (Robarts, Fig. 6, element 186); **when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); **when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program); **when a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11). Ellis discloses an interactive program guide which allows the user to add many elements of a television program to a favorites list. However, Ellis does not disclose the user adding a particular television program to a list of favorites. Robarts discloses enabling a viewer to add a program to a predefined list of favorites (paragraph [0075], lines 8-10) in order for the user later to be able to quickly access a list programs previously identified as favorites (Robarts, paragraph

[0077], lines 9-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the program favorites list in the interactive program guide of Ellis. Allowing the user to access programs added to a list of favorites would have been highly desirable in the art, as it would provide another method for the user to organize their preferences.

Regarding claim 2: **The method of claim 1 wherein the characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs comprise at least one of: a programming network identifier** (Ellis, Fig. 31, paragraph [0128], line 8); **a broadcast starting time** (Ellis, Figs. 6 and 7, paragraph [0128], lines 7-8); **a description of audio/visual content as corresponds to the audio/visual program** (Ellis, Fig. 7, element 155, paragraph [0128], lines 10-13); **audio/visual program media source** (Ellis, Figs. 6 and 7, paragraph [0128], lines 8-10).

Regarding claim 4: **The method of claim 1 wherein taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10). This limitation was already anticipated when rejecting claim 1, and this claim is therefore rejected on the same grounds as claim 1.

Regarding claim 5: **The method of claim 1 wherein taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program). This limitation was already anticipated when rejecting claim 1, and this claim is therefore rejected on the same grounds as claim 1.

Regarding claim 6: **The method of claim 1 wherein taking a third predetermined action comprises displaying the list of preferred items** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11). This limitation was already anticipated when rejecting claim 1, and this claim is therefore rejected on the same grounds as claim 1.

Regarding claim 7: **The method of claim 1 wherein: taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); **taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program); **and taking a third predetermined action comprises displaying the list of preferred items**

(Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11). These limitations were already anticipated when rejecting claim 1, and this claim is therefore rejected on the same grounds as claim 1.

Regarding claim 8: **The method of claim 1 wherein detecting preliminary selection of a particular one of the discrete selectable audio/visual programs further comprises detecting at least a predetermined relationship between a present position of one of the characterizing descriptors as corresponds to the particular one of the discrete selectable audio/visual programs and an area of visual focus** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9). This claim is rejected on the same grounds as claim 1.

Regarding claim 9: **The method of claim 1 and further comprising determining when the user selects the preliminarily selected audio/visual program by detecting when the user asserts a selection action at a time when a characterizing descriptor as corresponds to the preliminarily selected audio/visual program occupies, at least in part, a same portion of a display as a predetermined area of visual focus** (Robarts, Fig. 6, elements 186 and 200, paragraph [0075], lines 8-10).

Regarding claim 10, Ellis discloses: **a method to facilitate provision of an interactive programming guide, comprising: providing access to characterizing descriptors as**

individually correspond to a plurality of discrete selectable items of audio/visual content (Ellis, Fig. 31, paragraph [0128], lines 5-13); **displaying an interactive programming guide comprising at least one of the characterizing descriptors** (Ellis, Fig. 31, paragraph [0128], lines 5-13). However, Ellis does not disclose the following, which Robarts does: **providing an updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11); **providing an area of visual focus on a particular displayed one of the characterizing descriptors** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9); **in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); **in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program); **in response to a third signal that is different from both the first signal and the second signal, displaying the updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11). Ellis discloses an interactive program guide which allows the user to add many elements of a television program to a favorites list. However, Ellis does not disclose the user adding a particular television program to a list of favorites. Robarts discloses enabling a viewer to add a program to a predefined list of favorites (paragraph [0075], lines 8-10) in order for the user later to be able to quickly access a

list programs previously identified as favorites (Robarts, paragraph [0077], lines 9-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the program favorites list in the interactive program guide of Ellis.

Allowing the user to access programs added to a list of favorites would have been highly desirable in the art, as it would provide another method for the user to organize their preferences.

Regarding claim 11: **The method of claim 10 wherein the response to the third signal further comprises not displaying characterizing descriptors as correspond to items of audio/visual content that are not on the list of preferred items of audio/visual content** (Robarts, Fig. 13, paragraph [0095], lines 1-14).

Regarding claim 12: **The method of claim 10 further comprising: receiving at least one of the first signal, the second signal, and the third signal from a remote control device** (Robarts, paragraph [0044], lines 4-8).

Claims 3 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (Pub. No.: US 2004/0117831) in view of Robarts et al (Pub. No.: US 2005/0278741) as applied to claims 2 and 10 above, respectively, and further in view of Wilder et al. (Pub. No.: US 2003/0051246).

Regarding claim 3: The combined teachings of Ellis and Robarts as a whole do not disclose **wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media.** However, Wilder does (paragraph [0008], lines 3-5). Wilder discloses combining EPG data from a plurality of different sources into a single EPG. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the audio/visual programs to be embodied in a plurality of media. This would have been a highly desirable feature, as it would allow the user to compare all content from all viewing sources in order to select the program most desirable to the user.

Regarding claim 13: The combined teachings of Ellis and Robarts as a whole do not disclose **wherein the plurality of discrete selectable items of audio/visual content are embodied in a plurality of media.** However, Wilder does (paragraph [0008], lines 3-5). Wilder discloses combining EPG data from a plurality of different sources into a single EPG. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the audio/visual content to be embodied in a plurality of media. This would have been a highly desirable feature, as it would allow the user to compare all content from all viewing sources in order to select the program most desirable to the user.

Claim 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (Pub. No.: US 2004/0117831) in view of Robarts et al (Pub. No.: US 2005/0278741) as applied to claim 10 above, and further in view of Olah et al. (Pub. NO.: US 2003/0005072).

Regarding claim 14: The combined teachings of Ellis and Robarts as a whole do not disclose **further comprising: automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.** However, Olah does (paragraph [0040], lines 8-10, [0037], lines 7-9). Olah discloses monitoring a user's activity, and how this can be useful to gain information as to a user's periods of inactivity (paragraph [0040], lines 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the method of claim 10 to update a list of preferred items based on a users inactivity, i.e. if the area of visual focus does not move for greater than a predetermined length of time. This would have been a highly desirable feature, as it would allow the system to use more available information in order to update the users list of preferred items.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571)270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623